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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/813,160

03/31/2004

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Q80746

4467

23373 7590 11/12/2008
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EXAMINER

GOLDBERG, JEANINE ANNE

ART UNIT

PAPER NUMBER

1634

MAIL DATE

DELIVERY MODE

11/12/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Rule 312 Communication	Application No.	Applicant(s)
	10/813,160	KHANUJA ET AL.
	Examiner	Art Unit
	JEANINE A. GOLDBERG	1634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The amendment filed on 23 October 2008 under 37 CFR 1.312 has been considered, and has been:

a) ☐ entered.

b) ☐ entered as directed to matters of form not affecting the scope of the invention.

c) ☐ disapproved because the amendment was filed after the payment of the issue fee.

Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

d) ☐ disapproved. See explanation below.

e) ☒ entered in part. See explanation below.

The amendment to the first line of the specification includes an incorporation by reference statement. This was not filed at the time the invention was made and would be considered new matter. The amendment will be entered in part. The first sentence will be entered, but the second sentence will not be entered.

For applications filed prior to September 21, 2004, the incorporation by reference statement may appear in the transmittal letter or in the specification. Note that for applications filed prior to September 21, 2004, if applicants used a former version of the transmittal letter form provided by the USPTO, the incorporation by reference statement could only be relied upon to add inadvertently omitted material to the continuation or divisional application.

If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See *Dart Indus. v. Banner*, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980).

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